

AMENDED IN ASSEMBLY AUGUST 17, 2015

AMENDED IN ASSEMBLY JULY 2, 2015

AMENDED IN SENATE MAY 4, 2015

SENATE BILL

No. 707

**Introduced by Senator Wolk
(Principal coauthor: Senator Jackson)**

February 27, 2015

An act to amend Sections 626.9 and 30310 of the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

SB 707, as amended, Wolk. Firearms: gun-free school zone.

Existing law, the Gun-Free School Zone Act of 1995, subject to exceptions, prohibits a person from possessing a firearm in a place that the person knows, or reasonably should know, is a school zone, unless with the written permission of certain school district officials. Existing law defines a school zone as an area on the grounds of a school providing instruction in kindergarten or grades 1 to 12, inclusive, or within a distance of 1,000 feet of that school. Existing law prohibits a person from bringing or possessing a firearm upon the grounds of a campus of a public or private university or college, or buildings owned or operated for student housing, teaching, research, or administration by a public or private university or college, that are contiguous or are clearly marked university property, as specified, unless with the written permission of specified university or college officials. Under existing law, a violation of these provisions is a felony, or, under specified circumstances, a misdemeanor. Under existing law, certain persons are exempt from both the school zone and the university prohibitions,

including, among others, a person holding a valid license to carry a concealed firearm and a retired peace officer authorized to carry a concealed or loaded firearm.

This bill would recast the provisions relating to a person holding a valid license to carry a concealed firearm to allow that person to carry a firearm in an area that is within 1,000 feet of, but not on the grounds of, a public or private school providing instruction in kindergarten or grades 1 to 12, inclusive. The bill would also delete the exemption that allows a person holding a valid license to carry a concealed firearm to bring or possess a firearm on the campus of a university or college. The bill would create an additional exemption ~~to~~ *from* those prohibitions for certain appointed peace officers who are authorized to carry a firearm by their appointing ~~agency~~ *agency, and an exemption for certain retired reserve peace officers who are authorized to carry a concealed or loaded firearm*. By expanding the scope of an existing crime, the bill would create a state-mandated local program.

Existing law, subject to exceptions, prohibits carrying ammunition or reloaded ammunition onto school grounds unless it is with the written permission of the school district superintendent, the superintendent's designee, or equivalent school authority.

This bill would reorganize those exceptions. The bill would delete the exemption that allows a person to carry ammunition or reloaded ammunition onto school grounds if the person is licensed to carry a concealed firearm. The bill would also create an additional exception to that prohibition by authorizing a person to carry ammunition or reloaded ammunition onto school grounds if it is in a motor vehicle at all times and is within a locked container or within the locked trunk of the vehicle.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 626.9 of the Penal Code is amended to
2 read:

1 626.9. (a) This section shall be known, and may be cited, as
2 the Gun-Free School Zone Act of 1995.

3 (b) Any person who possesses a firearm in a place that the
4 person knows, or reasonably should know, is a school zone, as
5 defined in paragraph (1) of subdivision (e), unless it is with the
6 written permission of the school district superintendent, his or her
7 designee, or equivalent school authority, shall be punished as
8 specified in subdivision (f).

9 (c) Subdivision (b) does not apply to the possession of a firearm
10 under any of the following circumstances:

11 (1) Within a place of residence or place of business or on private
12 property, if the place of residence, place of business, or private
13 property is not part of the school grounds and the possession of
14 the firearm is otherwise lawful.

15 (2) When the firearm is an unloaded pistol, revolver, or other
16 firearm capable of being concealed on the person and is in a locked
17 container or within the locked trunk of a motor vehicle.

18 This section does not prohibit or limit the otherwise lawful
19 transportation of any other firearm, other than a pistol, revolver,
20 or other firearm capable of being concealed on the person, in
21 accordance with state law.

22 (3) When the person possessing the firearm reasonably believes
23 that he or she is in grave danger because of circumstances forming
24 the basis of a current restraining order issued by a court against
25 another person or persons who has or have been found to pose a
26 threat to his or her life or safety. This subdivision may not apply
27 when the circumstances involve a mutual restraining order issued
28 pursuant to Division 10 (commencing with Section 6200) of the
29 Family Code absent a factual finding of a specific threat to the
30 person's life or safety. Upon a trial for violating subdivision (b),
31 the trier of a fact shall determine whether the defendant was acting
32 out of a reasonable belief that he or she was in grave danger.

33 (4) When the person is exempt from the prohibition against
34 carrying a concealed firearm pursuant to Section 25615, 25625,
35 25630, or 25645.

36 (5) When the person holds a valid license to carry the firearm
37 pursuant to Chapter 4 (commencing with Section 26150) of
38 Division 5 of Title 4 of Part 6, who is carrying that firearm in an
39 area that is not in, or on the grounds of, a public or private school
40 providing instruction in kindergarten or grades 1 to 12, inclusive,

1 but within a distance of 1,000 feet from the grounds of the public
2 or private school.

3 (d) Except as provided in subdivision (b), it shall be unlawful
4 for any person, with reckless disregard for the safety of another,
5 to discharge, or attempt to discharge, a firearm in a school zone,
6 as defined in paragraph (1) of subdivision (e).

7 The prohibition contained in this subdivision does not apply to
8 the discharge of a firearm to the extent that the conditions of
9 paragraph (1) of subdivision (c) are satisfied.

10 (e) As used in this section, the following definitions shall apply:

11 (1) “Concealed firearm” has the same meaning as that term is
12 given in Sections 25400 and 25610.

13 (2) “Firearm” has the same meaning as that term is given in
14 subdivisions (a) to (d), inclusive, of Section 16520.

15 (3) “Locked container” has the same meaning as that term is
16 given in Section 16850.

17 (4) “School zone” means an area in, or on the grounds of, a
18 public or private school providing instruction in kindergarten or
19 grades 1 to 12, inclusive, or within a distance of 1,000 feet from
20 the grounds of the public or private school.

21 (f) (1) Any person who violates subdivision (b) by possessing
22 a firearm in, or on the grounds of, a public or private school
23 providing instruction in kindergarten or grades 1 to 12, inclusive,
24 shall be punished by imprisonment pursuant to subdivision (h) of
25 Section 1170 for two, three, or five years.

26 (2) Any person who violates subdivision (b) by possessing a
27 firearm within a distance of 1,000 feet from the grounds of a public
28 or private school providing instruction in kindergarten or grades
29 1 to 12, inclusive, shall be punished as follows:

30 (A) By imprisonment pursuant to subdivision (h) of Section
31 1170 for two, three, or five years, if any of the following
32 circumstances apply:

33 (i) If the person previously has been convicted of any felony,
34 or of any crime made punishable by any provision listed in Section
35 16580.

36 (ii) If the person is within a class of persons prohibited from
37 possessing or acquiring a firearm pursuant to Chapter 2
38 (commencing with Section 29800) or Chapter 3 (commencing with
39 Section 29900) of Division 9 of Title 4 of Part 6 of this code or
40 Section 8100 or 8103 of the Welfare and Institutions Code.

1 (iii) If the firearm is any pistol, revolver, or other firearm capable
2 of being concealed upon the person and the offense is punished as
3 a felony pursuant to Section 25400.

4 (B) By imprisonment in a county jail for not more than one year
5 or by imprisonment pursuant to subdivision (h) of Section 1170
6 for two, three, or five years, in all cases other than those specified
7 in subparagraph (A).

8 (3) Any person who violates subdivision (d) shall be punished
9 by imprisonment pursuant to subdivision (h) of Section 1170 for
10 three, five, or seven years.

11 (g) (1) Every person convicted under this section for a
12 misdemeanor violation of subdivision (b) who has been convicted
13 previously of a misdemeanor offense enumerated in Section 23515
14 shall be punished by imprisonment in a county jail for not less
15 than three months, or if probation is granted or if the execution or
16 imposition of sentence is suspended, it shall be a condition thereof
17 that he or she be imprisoned in a county jail for not less than three
18 months.

19 (2) Every person convicted under this section of a felony
20 violation of subdivision (b) or (d) who has been convicted
21 previously of a misdemeanor offense enumerated in Section 23515,
22 if probation is granted or if the execution of sentence is suspended,
23 it shall be a condition thereof that he or she be imprisoned in a
24 county jail for not less than three months.

25 (3) Every person convicted under this section for a felony
26 violation of subdivision (b) or (d) who has been convicted
27 previously of any felony, or of any crime made punishable by any
28 provision listed in Section 16580, if probation is granted or if the
29 execution or imposition of sentence is suspended, it shall be a
30 condition thereof that he or she be imprisoned in a county jail for
31 not less than three months.

32 (4) The court shall apply the three-month minimum sentence
33 specified in this subdivision, except in unusual cases where the
34 interests of justice would best be served by granting probation or
35 suspending the execution or imposition of sentence without the
36 minimum imprisonment required in this subdivision or by granting
37 probation or suspending the execution or imposition of sentence
38 with conditions other than those set forth in this subdivision, in
39 which case the court shall specify on the record and shall enter on

1 the minutes the circumstances indicating that the interests of justice
2 would best be served by this disposition.

3 (h) Notwithstanding Section 25605, any person who brings or
4 possesses a loaded firearm upon the grounds of a campus of, or
5 buildings owned or operated for student housing, teaching,
6 research, or administration by, a public or private university or
7 college, that are contiguous or are clearly marked university
8 property, unless it is with the written permission of the university
9 or college president, his or her designee, or equivalent university
10 or college authority, shall be punished by imprisonment pursuant
11 to subdivision (h) of Section 1170 for two, three, or four years.
12 Notwithstanding subdivision (k), a university or college shall post
13 a prominent notice at primary entrances on noncontiguous property
14 stating that firearms are prohibited on that property pursuant to
15 this subdivision.

16 (i) Notwithstanding Section 25605, any person who brings or
17 possesses a firearm upon the grounds of a campus of, or buildings
18 owned or operated for student housing, teaching, research, or
19 administration by, a public or private university or college, that
20 are contiguous or are clearly marked university property, unless
21 it is with the written permission of the university or college
22 president, his or her designee, or equivalent university or college
23 authority, shall be punished by imprisonment pursuant to
24 subdivision (h) of Section 1170 for one, two, or three years.
25 Notwithstanding subdivision (k), a university or college shall post
26 a prominent notice at primary entrances on noncontiguous property
27 stating that firearms are prohibited on that property pursuant to
28 this subdivision.

29 (j) For purposes of this section, a firearm shall be deemed to be
30 loaded when there is an unexpended cartridge or shell, consisting
31 of a case that holds a charge of powder and a bullet or shot, in, or
32 attached in any manner to, the firearm, including, but not limited
33 to, in the firing chamber, magazine, or clip thereof attached to the
34 firearm. A muzzle-loader firearm shall be deemed to be loaded
35 when it is capped or primed and has a powder charge and ball or
36 shot in the barrel or cylinder.

37 (k) This section does not require that notice be posted regarding
38 the proscribed conduct.

39 (l) This section does not apply to a duly appointed peace officer
40 as defined in Chapter 4.5 (commencing with Section 830) of Title

1 3 of Part 2, a full-time paid peace officer of another state or the
2 federal government who is carrying out official duties while in
3 California, any person summoned by any of these officers to assist
4 in making arrests or preserving the peace while he or she is actually
5 engaged in assisting the officer, a member of the military forces
6 of this state or of the United States who is engaged in the
7 performance of his or her duties, or an armored vehicle guard,
8 engaged in the performance of his or her duties, as defined in
9 subdivision (d) of Section 7582.1 of the Business and Professions
10 Code.

11 (m) This section does not apply to a security guard authorized
12 to carry a loaded firearm pursuant to Article 4 (commencing with
13 Section 26000) of Chapter 3 of Division 5 of Title 4 of Part 6.

14 (n) This section does not apply to an existing shooting range at
15 a public or private school or university or college campus.

16 (o) This section does not apply to an honorably retired peace
17 officer authorized to carry a concealed or loaded firearm pursuant
18 to any of the following:

19 (1) Article 2 (commencing with Section 25450) of Chapter 2
20 of Division 5 of Title 4 of Part 6.

21 (2) Section 25650.

22 (3) Sections 25900 to 25910, inclusive.

23 (4) Section 26020.

24 (5) *Paragraph (2) of subdivision (c) of Section 26300.*

25 (p) This section does not apply to a peace officer appointed
26 pursuant to Section 830.6 who is authorized to carry a firearm by
27 the appointing agency.

28 SEC. 2. Section 30310 of the Penal Code is amended to read:

29 30310. (a) Unless it is with the written permission of the school
30 district superintendent, the superintendent's designee, or equivalent
31 school authority, no person shall carry ammunition or reloaded
32 ammunition onto school grounds, except sworn law enforcement
33 officers acting within the scope of their duties.

34 (b) This section shall not apply to any of the following:

35 (1) A duly appointed peace officer as defined in Chapter 4.5
36 (commencing with Section 830) of Title 3 of Part 2.

37 (2) A full-time paid peace officer of another state or the federal
38 government who is carrying out official duties while in California.

1 (3) Any person summoned by any of these officers to assist in
2 making an arrest or preserving the peace while that person is
3 actually engaged in assisting the officer.

4 (4) A member of the military forces of this state or of the United
5 States who is engaged in the performance of that person's duties.

6 (5) An armored vehicle guard, who is engaged in the
7 performance of that person's duties, as defined in subdivision (d)
8 of Section 7582.1 of the Business and Professions Code.

9 (6) Any peace officer, listed in Section 830.1 or 830.2, or
10 subdivision (a) of Section 830.33, whether active or honorably
11 retired.

12 (7) Any other duly appointed peace officer.

13 (8) Any honorably retired peace officer listed in subdivision (c)
14 of Section 830.5.

15 (9) Any other honorably retired peace officer who during the
16 course and scope of his or her appointment as a peace officer was
17 authorized to, and did, carry a firearm.

18 (10) (A) A person carrying ammunition or reloaded ammunition
19 onto school grounds that is in a motor vehicle at all times and is
20 within a locked container or within the locked trunk of the vehicle.

21 (B) For purposes of this paragraph, the term "locked container"
22 has the same meaning as set forth in Section 16850.

23 (c) A violation of this section is punishable by imprisonment
24 in a county jail for a term not to exceed six months, a fine not to
25 exceed one thousand dollars (\$1,000), or both the imprisonment
26 and fine.

27 SEC. 3. No reimbursement is required by this act pursuant to
28 Section 6 of Article XIII B of the California Constitution because
29 the only costs that may be incurred by a local agency or school
30 district will be incurred because this act creates a new crime or
31 infraction, eliminates a crime or infraction, or changes the penalty
32 for a crime or infraction, within the meaning of Section 17556 of
33 the Government Code, or changes the definition of a crime within
34 the meaning of Section 6 of Article XIII B of the California
35 Constitution.